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The Solicitors' Journal

VOL. LXXVII. **Saturday, December 23, 1933.** No. 51

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Current Topics.

Mr. Alexander Macmorran, K.C.

By the passing of this distinguished lawyer the profession loses one whose name is writ large in legal literature, and one who for many years occupied a distinct place in the ranks of practitioners. Called to the Bar at the Middle Temple nearly sixty years ago, he early began to specialise in local government law, a subject in which ere long he became a past master. Successive statutes as to public health, the reconstitution of local government areas, administrative orders as to the relief of the poor, education, vaccination, and the like, all came within the purview of Mr. Macmorran, and all were dealt with by him in a number of volumes with an almost painful exactitude. On several editions of Lumley's "Public Health" his name appeared as editor or as co-editor, and so thoroughly was the editorial work performed that the work was accepted as the last word on the subject. Familiarised as his name thus became by the various volumes bearing his name, it was not surprising that in time Mr. Macmorran built up an extensive practice both as a junior and, later, as a silk, particularly on those branches of law which he had made his own, and in the conduct of his cases in court he ever gave of his best in the interests of his clients. Although he had been laid aside for some time by illness he retained his interest in the law and the Temple where he had spent his working life. A few years ago he had the satisfaction of having his son, Mr. Kenneth Macmorran, called within the Bar, one of the comparatively rare instances of father and son being members of the Inner Bar at the same time.

Newfoundland.

It is to be hoped that the Newfoundland Act will provide a method by which one of our oldest colonies will soon free itself from its embarrassments and return to its customary independence. The Act is made necessary by the appalling fact that no budget has been balanced since 1920, owing to the depression in the fishing industry. This led to the appointment of a Joint Commission under the able chairmanship of Lord Amulree, and in the course of a six months' investigation its members paid two visits to Newfoundland and one to Canada and examined over 260 witnesses. The Act proposes a constitution under which six Commissioners shall act, three nominated by His Majesty's Government and three by Newfoundland, under the chairmanship of the Governor-General. At the same time it provides for the maintenance of the country's credit by means of advances out of moneys provided by Parliament. The remedies are both drastic, but the disease was serious. It will be unfortunate if the case of Newfoundland is regarded as a precedent for granting financial assistance to other self-governing Dominions. What is even more fraught with danger is the suspension of the free constitution which the Newfoundland Government has enjoyed since the Commission under the Great Seal, dated 2nd March, 1832, empowered the Governor to summon a general assembly for the island. Although there are only 280,000 inhabitants in the 42,000 square miles of Newfoundland, any permanent withdrawal of democratic government might have serious consequences. "In the multitude of connsellors there is safety," is a principle of government to which English-speaking peoples have grown accustomed, and it must not be forgotten that the present Act is a temporary measure of an emergency nature. This should also be remembered in connection with the position of Newfoundland under the Statute of Westminster, 1931, to the passing of which by the Imperial Parliament, Newfoundland, with the other self-governing Dominions, consented. In that Statute Newfoundland is numbered among the Dominions, and, although at present Newfoundland does not desire it to apply, it is highly undesirable that the lowering of its status to that of a Crown Colony should continue for any considerable length of time.

Capital and Revenue.

The distinction between capital and revenue, though familiar to accountants, is not always easy for lawyers to determine in practice. The House of Lords was recently faced with the task of deciding a question of this nature turning on the construction of s. 4 (3) (ii) (*d*) of the Railways (Valuation for Rating) Act, 1930, in cases involving amounts of interest at 4 per cent. on £3,750,000 and £2,448,101: *London Midland & Scottish Railway Co.* v. *Anglo-Scottish Railways Assessment Authority; London & North Eastern Railway Co.* v. *Same* (77 Sol. J. 899). The section under consideration prescribed for railways constituted under the Railways Act, 1921, the method of valuing a railway hereditament for rating purposes and set out what may be deducted from the total revenue receipts of a railway company in any year in order to arrive at the net receipts for the purpose of computing the net annual value. There may be deducted (*inter alia*) the amount properly charged in that year as revenue expenditure in respect of management, working, maintenance and renewals . . . and in respect of rates and tithe rent-charge, subject to the adjustment (*inter alia*) that "the amount to be charged shall be reduced by an amount representing interest for one year . . . upon the balance remaining unexpended at the commencement of the year of any amounts previously set aside out of revenue for the purposes aforesaid, and, in determining the balance unexpended of any such amounts, no expenditure in respect of additions or improvements of a capital nature which was charged on the company's accounts for the year ending 21st December, 1923, or any later year, shall be debited against those amounts." The sums in question were parts of a total sum of £60,000,000 received by railway companies after the war under the Railways Act, 1921. These sums stood to the credit of Works and Equipment Maintenance Fund in the companies' books. Lord Atkin said that by s. 11 (4) of the Railways Act, 1921, the sums might be applied for any purpose for which the earnings of the company might be applied, but that did not necessarily make the sums revenue. His lordship said that if the sums were revenue for the purpose

of rating they were revenue for all purposes, but that he could not think that sums received by railway companies either in circumstances of war or by way of subsidy or otherwise were ever intended to come into the computation of rateable value. His lordship therefore upheld the contention of the railway companies that the sums were not revenue, but were paid in settlements of claims, many of which were of a capital nature, and the House allowed the appeals from the Orders of the Railway and Canal Commission with costs.

Tithe Cases.

THE litigiousness of farmers on questions concerning the payment of tithes seems to be endless, and new decisions on the subject are now of frequent occurrence. On 29th November Mr. Justice MACKINNON gave judgments in three similar cases which raised questions (*inter alia*) whether sheep, lambs and other "beasts that gain the land" are tithable. *Swaffer* v. *Mulcahy*; *Hooker* v. *Same*; *Smith* v. *Same* (77 SOL. J. 899). The plaintiff in each case relied on an alleged statute, 51 Hen. III, Stat. 4, and les Estatuz Del Eschekere Districtiones Scaccarii (temp. incert). The passage relied on was translated: "No man of religion nor other shall be distrained by his beasts that gain the land (par ces bestes ke gaignent sa terre) nor by his sheep for the King's debt nor for that of another, nor for any other reason, neither by the King's bailiffs nor by any other man, so long as one finds any other distress and other chattels sufficient for levying the distress or levying the demand." The earliest document in which that passage had occurred was brought from the Public Record Office, in which the passage was set out in the middle of a section of 51 Hen. III, Stat. 5, and there was a note by the scribe that it had been set out in the wrong place. An expert witness was called, who said that it was not in the Statute Roll, and that the date given was almost certainly wrong. His lordship held that over and over again in cases the courts had treated it as a document declaratory of the common law and binding on them; See, e.g., *Keen* v. *Priest*, 4 H. & N. 236, where Baron WATSON, at p. 238, said: "Those statutes are only in affirmance of the common law." The defendant, however, relied on the decision of Lord MANSFIELD in *Hutchins* v. *Chambers* (1758), 1 Burr. 479, which was followed by Mr. Justice MCCARDIE in *McCreagh* v. *Cox & Ford*, 39 T.L.R. 484. Lord MANSFIELD said that seizure under the Poor Relief Act, 1601, was partly analogous to distress, but far more analogous to execution, and Mr. Justice MACKINNON therefore held that distress under s. 81 of the Tithe Commutation Act, 1836, was analogous to execution and not to a landlord's distress, and the rule of law laid down in the ancient statutes did not apply. Judgment was accordingly entered for the defendant in the first case, while, although the defendants succeeded on the same issues in the second and third cases, judgment was entered for the plaintiffs on minor issues, relating in each case to a horse which was actually in use. The novelty of the main point at issue affords some idea of the enthusiasm of farmers in their determination to avoid payment of tithe, but one may be permitted to doubt whether litigation of this kind goes far towards removing any real grievance which may be felt by tithe payers.

Compromise of Actions by Solicitors.

"THE court shall thereupon make such order as shall be just" is a familiar phrase in the statutes and rules dealing with High Court procedure, giving the court a discretion which it must exercise in a judicial manner. The phrase occurs at the end of s. 41 of the Supreme Court of Judicature (Consolidation) Act, 1925, which allows persons formerly entitled to apply to any court to restrain the prosecution of an action to apply to the High Court or the Court of Appeal, as the case may be, by motion in a summary way, for a stay of proceedings in the cause or matter. In *Martin* v. *Bannister* (*The Times*, 15th December), the Court of Appeal unanimously reversed the order of Mr. Justice HORRIDGE, allowing a stay of proceedings in a case where a solicitor had compromised an action for personal injuries by accepting a payment of £100 damages and thirty-five guineas in respect of costs. The offer of thirty-five guineas had been an increase on a previous offer of thirty guineas on the plaintiff's solicitor demanding forty guineas. After the compromise had been effected, the injured man, for whom the solicitor had been acting, received a bill for £61 from the infirmary, and subsequently commenced proceedings against the defendant for damages, alleging that he had no intention of settling the claim on those terms, having regard to the severity of his injuries, which included two fractures of his left arm and three of his right leg. The defendant applied for a stay of proceedings on the ground that the plaintiff's claim had been compromised, and the Registrar, at Preston, refused a stay, but the stay was subsequently allowed on appeal, by Mr. Justice HORRIDGE. The Master of the Rolls said that it was a case in which it was unwise to stay proceedings. A remarkable feature of the case was that the sum agreed for costs was very large compared with the work apparently done by the solicitor, and the insurance company were put upon inquiry when they received a demand for an increased payment for costs. Moreover, the receipt given by the plaintiff was for £100, and there was nothing to show that the plaintiff had consented to the solicitor making thirty-five guineas out of the case. Where serious injustice would result from allowing a compromise to stand it can be set aside even when it is made with a person who had no knowledge of the limitation of the authority of counsel to make it: *Neale* v. *Gordon Lennox* [1902] A.C. 465; and it may also be set aside for any reason which would invalidate an agreement between the parties: *Lewis's* v. *Lewis* [1890] 45 Ch. D. 281. In *Martin* v. *Bannister* the question whether a stay should be granted depended on whether the compromise had been made with the full authority and consent of the client, and as that did not clearly appear from the circumstances as disclosed, the court exercised its judicial discretion in refusing a stay.

Bathing Pools and Entertainment Tax.

THE latest attempt on the part of the Revenue to extend the scope of the Finance (New Duties) Act, 1916, with respect to entertainment tax recently met with failure in the Court of Appeal in *Attorney-General* v. *Southport Corporation* (77 SOL. J. 899). In this case, upon which we commented when it had been before the Court of first instance in an article entitled "Entertainment Tax" (at p. 531 of this volume), Mr. Justice FINLAY had decided that payment for a ticket of admission by a non-bather to the sea-bathing lake and grounds at Southport, of which the defendant corporation were proprietors, was not a payment for admission to an entertainment within s. 1 of the Finance (New Duties) Act, 1916. The charge for admission for non-bathers between 2 p.m. and 5 p.m. was 4d. and at any other time it was 3d. During the season, from 30th April, 1932, to 1st October, 1932, 127,722 non-bathers paid 4d. for admission and 58,051 non-bathers paid 3d. for admission. The total duty claimed was £653 2s. 3d. The Master of the Rolls, in giving judgment, said that there was no evidence that there was any exhibition or sport or management of an entertainment. The bathing was merely ancillary to the other amenities which made the pool a place of resort, and therefore entertainment tax was not payable. We commented (77 SOL. J. 18) on a reported ruling of the Excise Officers in Northamptonshire, that entertainment tax must be paid where performances are given with public meals. Such a ruling, if given, was much too general, as on the authority of *Lyons & Co.* v. *Fox* [1919] 1 K.B. 11, where the music is of an incidental or ancillary nature and no part of the payment for meals is devoted to the provision of entertainment, no entertainment tax is payable at all. The position is much the same where entrance to an enclosure is given for payment for the purpose of enjoying the social amenities within the enclosure. There is a saying that an old tax is no tax, but repeated reminders such as this of the existence of the entertainments duty make it difficult for the public to forget its burden.

Rent Restrictions Act, 1933.

CLASS C HOUSES IN OCCUPATION OF OWNERS.

[CONTRIBUTED.]

THE statement in the answer to a recent query under "Points in Practice" as to whether it is necessary and/or desirable to register a Class C house, which on the passing of the Rent, etc. Act, 1933, was in the occupation of the owner, that it can in future be let with no restriction as to rent is, it is submitted, deserving of further consideration. The present writer is not challenging the correctness of the answer, but it is within his knowledge that there are solicitors who hold a different view and are of opinion Parliament (*per incuriam*) omitted to protect owner-occupiers who may wish in the future to let their Class C houses.

It may be mentioned that the recommendation of the Inter-departmental Committee was that Class C houses should cease to be subject to the decontrolling provisions of the Act of 1920, but that houses of this class already decontrolled should remain decontrolled, and that in order to keep a record of those already decontrolled the landlord who claimed that such a house was decontrolled should within three months after the passing of the Act to carry out the recommendations, inform the local authority, stating the date on which he claimed that the house was decontrolled, and that failure to make such a claim should be conclusive evidence that the house was still controlled. (See Dr. Wilkinson's summary of the Committee's recommendations, 76 SOL. J. 193, 208.)

Section 2 of the 1923 Act provided that in certain events, one of which was the owner coming into possession, the principal Act should "cease to apply to the dwelling-house."

The material words of sub-s. (1) of s. 2 of the 1933 Act are: "Subject as hereinafter provided, section 2 of the Act of 1923 (which provides for the exclusion of dwelling-houses from the application of the principal Act in certain cases) shall not apply to any dwelling-house of which the rateable value on the appointed day did not exceed" (Class C dwelling-houses).

Now it is to be noted the sub-section contains no reference to rent, but only to rateable value, and therefore may equally apply to owner-occupied houses as to those which are let, and it has been argued that the meaning of the words "shall not apply" is *not* that s. 2 of the Act of 1923 shall not operate to effect a decontrol of Class C houses *in the future*, but the latter section shall be deemed to have been non-existent as to these houses. The argument is put in this way: "If this is not so, what is the object of the words 'Subject as hereinafter provided'? Surely those words must mean that subject to the provision hereinafter contained for the continuance of existing decontrol in certain cases all existing decontrol of this class of house shall cease."

The answers to this argument appear to be these. First, a statute is not ordinarily to be construed as retrospective so as to take away rights already conferred unless there is a clearly expressed intention. Secondly, the words of sub-s. (2), which contains the provision for the landlord of a Class C dwelling-house "let as separate dwelling-house immediately before the passing of this Act" giving notice of existing decontrol to the local council, by its very words negatives the assumption that sub-s. (1) was to be construed as bringing again into control houses already decontrolled. The former sub-section provides that "if in any proceedings with respect to any dwelling-house" within Class C "it is proved that but for the provisions of s. 2 of the Act of 1923 the principal Acts would have applied" to it, the principal Acts shall be deemed to apply, if there has been no notice to the council. The words last quoted seem to be conclusive against the retrospective theory, and there could be no object in allowing landlords of decontrolled houses who had re-let them to continue the decontrol, whilst the houses of owner-occupiers were again to be brought under control, if they were subsequently let. The necessity for registration of such a house did not exist, since the fact that it was in the owner's occupation could be easily proved.

It is on these grounds, as it seems to the present writer, and not on any clear wording of the recent Act, that owner-occupiers of Class C houses may assume that existing decontrol is continued.

Husband's Rights in Wife's House.

THE case of *Fitch* v. *Fitch*, reported in our "County Court Letter" of 28th October last (77 SOL. J. 760) in which a wife successfully sued a husband for possession of a house in which they had once lived, recalls a number of decisions arising out of the apparent conflict between the law of husband and wife and that of property. By the one, husband and wife have a right, and are under a duty, of consortium, which involves the necessity for what is commonly called a home; by the other, an owner of property is invested with a conglomeration of rights, including a right of exclusive user and a right of disposal. The conflict then arises in this way: If a married houseowner, invoking the law of property, desires to exclude his wife or her husband, as the case may be, or to sell the house, can the wife or husband, by invoking the law of husband and wife, prevent him or her from acting accordingly?

The two branches of the law are, of course, of different origin; and at one time it looked as if, in the nineteenth century, we were in for another Coke-and-Bacon contest. This was when, in *Green* v. *Green* (1840), 5 Ha. 400n, the Court of Chancery granted a wife an injunction to restrain her husband from dealing with property settled upon her, including the house they had lived in, and told him that if the injunction *did* have the effect of a separation *a mensa et toro*, he had his remedy in the Ecclesiastical Court. By which, presumably, they meant he could get an order for restitution of conjugal rights if he liked, an order then enforceable by attachment. We do not know whether he did, but the decision of the Court of Chancery was followed in *Wood* v. *Wood* (1871), 19 W.R. 1049, when a husband was restrained from continuing in possession of a private hotel (or any part thereof) which he had settled on his wife before disappearing for six months, but to which he had recently returned, to the prejudice of the business.

The matter was not really fully gone into, however, till *Symonds* v. *Hallett* (1883), 24 Ch.D. 346, C.A. The facts of this case were that the house was the wife's by the marriage settlement; the parties lived in it till unhappy differences parted them; the wife filed a petition for judicial separation; the husband kept coming to the house and pleaded that he wanted access to papers and valuable property of his own, etc. The judgment of Brett, M.R., shows that the conflict referred to above is not real but apparent. The injunction granted below was affirmed because the husband "was proposing to go to the house not for the purpose of associating or living with his wife as a husband, but for the purpose of using the house as a house for himself." At the same time Cotton, L.J., while defining the position, made it clear that the law as to consortium was not being modified: " . . . is the husband to be considered a stranger because the property is vested in her for her separate use? . . . My view is this, that the separate use was not created by a court of equity in any way to enable a wife to prevent the husband from exercising his rights and duties as a husband except by preserving the property for her."

This decision may be said to have cleared the position; rights of property fully respected, but non-owning spouse still invested with and subject to a right and duty of resort for the purposes of association. And the matter might have rested there if Brett, M.R., had not remarked, only eighteen months later, when delivering judgment in *Weldon*

v. *De Bathe* (1884), 14 Q.B.D. 339, that he was "not sure that a husband could enter against the wife's will by reason of marital rights." This, however, being a mere dictum (the action was against trespassers who pleaded the husband's authority), an Irish court in *Gaynor* v. *Gaynor* (1901), 1 I.R. 217, declined, when granting an injunction to restrain a husband from interfering with his wife's business, which was that of a licensed victualler, to restrain him from entering the premises. The plaintiff, who alleged bodily fear of the defendant, was told that if ill-treated she should take proceedings for a separation.

It will have occurred to the reader by now that the conflict is not only apparent rather than real, but also of academic rather than of practical interest. For when the relations between parties to a marriage are such that one will not allow the other in his or her house, it is clear that one must have deserted the other or the other the one, and a separation can be decreed, putting an end to the consortium, as indeed it can be decreed even if they are still under the same roof (*Powell* v. *Powell*, [1922] P. 278, and see *Tobin* v. *Tobin*, (1930), 94 J.P.Jo. 303); while, since 1884, an order for restitution of conjugal rights cannot be "enforced" by imprisonment.

Hence in practice, it is probable that the only occasion when a court is likely to be troubled by a question of this kind is when the excluded party bases his or her claim on marital rights, but in reality merely intends to annoy the other. And for practical purposes, the principle to be followed is that laid down in *Shipman* v. *Shipman*, [1924] 2 Ch. 140, C.A., in which the husband resisted the wife's application for an injunction on the old ground that it would be tantamount to pronouncing a decree of separation, which was outside the province of the Court of Chancery. The Court of Appeal then formulated the rule that, where there is evidence of conduct which would justify the wife in resisting a suit for restitution of conjugal rights (as there was in that case, albeit affidavit evidence only) an injunction should issue, though the property protected was the "matrimonial home."

The wife's right of disposing of the "matrimonial home," if it happens to be hers, was established by *Allen* v. *Walker* (1870), L.R. Ex. 187, the facts being that the husband unsuccessfully sued tenants of the property, which he and the wife had formerly lived in, for trespass.

As to a husband's rights if his wife occupies and refuses to admit him to his own house—well, the Married Women's Property Acts, as is well known, modified the law of tort by giving a wife a right of action in respect of her separate estate against her husband, but omitted to confer corresponding privileges on husbands; so all he can do, trespass being a tort, is to eject her by force. If he desires to sell a house, *Hill* v. *Hill*, [1916] W.N. 59, affords an instance of an injunction directing her not to interfere with prospective purchasers—but the report of that case says that there was a post-nuptial settlement, so the husband presumably sued in contract; it would otherwise be a little difficult to reconcile it with the rule referred to. In *Callaby* v. *Perowne* (1920), 37 T.L.R. 241, it is true, a farmer-husband who had filed a petition, got an injunction to restrain his wife from molesting him when he visited his farm, where she still lived, for business purposes; but that could be granted by way of protecting a litigant, and the motion was made to and the order made by the Divorce Division. Pending the passing of a Married Men's Property Act, it would seem that the only way in which a husband can assert his proprietary rights when they are challenged is by force or by conveying the property to trustees, who could, presumably, sue the wife for trespass and possession if they desired to sell.

Mr. Hubert Foden Pattinson, solicitor, of Holland Park, late of Great James-street, left £23,907, with net personalty £21,337.

Company Law and Practice.

Removal of Liquidators.

NATURALLY the appointment of a liquidator is a matter with which every lawyer who has occasion to deal with companies is familiar, but it is not so often that it becomes necessary to remove a liquidator. Let us examine these points quite shortly. In the first place it must be borne in mind that there are three types of liquidation which must be taken into account, compulsory, voluntary and under supervision.

In compulsory liquidation, as is well known, the official receiver becomes provisional liquidator on the making of a winding-up order (s. 185 (1)). The court also has power to appoint a provisional liquidator at any time after the presentation of a winding-up petition (s. 184 (1)) and before the making of the winding-up order (s. 184 (2)). But, when the order is made, the official receiver, as I have said, becomes provisional liquidator; and he continues to act until either he or some other person becomes liquidator and is capable of acting as such. What happens after the winding-up order is provided for by s. 185: Briefly, meetings of the creditors and contributories are summoned by the official receiver, and these meetings decide whether to leave the liquidation in the hands of the official receiver or whether an application should be made to the court for the appointment of another liquidator.

Under r. 56 of the Winding Up Rules, the official receiver has to report the result of these meetings to the court. In practice it happens that companies which are so completely insolvent that their assets may be looked upon as negligible are frequently left in the hands of the official receiver, and in cases where there may be some cause for suspicion the same not infrequently occurs. In other words the official receiver is often left with the dog to hold where the dog is or may be either of no value or of a troublesome disposition. As one who has never yet had the misfortune to be either a creditor of or a contributory in a company which has been wound up by the court, I do not fully appreciate why more use is not made in this way of our admirable civil service, with its vast experience and unique facilities for dealing with cases of this kind.

As to the appointment of liquidators in a voluntary winding up, the tale is soon told. Under s. 232 the company in general meeting must, in the case of a members' voluntary winding up, appoint one or more liquidators; under s. 239, which applies to creditors' voluntary winding up, the respective meetings of the company and its creditors nominate persons for the position, but if they nominate different persons, the creditors' nominee wins the day. In the case of a winding up under supervision, the court may appoint an additional liquidator (s. 259).

May one here insert a plea for abolishing the winding up under supervision? I think I am right in saying that statistics show that it is little used, and, when there is so much knowledge to be acquired and retained, would it not be a generous gesture on the part of the legislature to remove a small proportion of that burden? The procedure is a bastard affair, which seems to offer no real advantage, and might perhaps be described as a giddy harumfrodite, compulsory and voluntary too.

But enough of the appointment of liquidators: let us look for a short time at the real subject of this article, which is their removal; and first in winding up by the court. Section 188 (1) says that a liquidator appointed by the court may resign or on cause shown be removed by the court, and sub-s. (3) of the same section provides that a vacancy in the office of a liquidator appointed by the court shall be filled by the court. I do not want to occupy space here by dealing at length with resignation, but would refer my readers to r. 165 of the Winding Up Rules. As to removal, this stands on a rather different footing from resignation.

Under r. 166, if a receiving order in bankruptcy is made against a liquidator he thereby vacates his office, and for the purposes of the application of the Act and rules he is to be deemed to have been removed. Failure to give the required security within the time allowed by the court, either by the order appointing him, or as extended, or failure to keep up his security, may cause a liquidator to vacate office. In the first case the official receiver must report the failure to the court, which may thereupon rescind the order appointing him; in the latter case the official receiver must again report the failure to the court, and the court may thereupon remove the liquidator and make such order as to costs as the court thinks fit (r. 58 (1) and (2)). The rule goes on to provide for the court giving a direction for further meetings of creditors and contributories for the purpose of determining whether an application shall be made to the court for another liquidator to be appointed. As to this latter provision, reference should be made to s. 185 (5), which says that the official receiver shall by virtue of his office be a liquidator during any vacancy. Section 188 says, as mentioned above, that a liquidator may, on cause shown, be removed by the court. What sort of cause has to be shown? There are a good many authorities dealing with particular cases in which cause has been shown to the satisfaction of the court; one type of case seems to be where duty and interest may conflict, or where two duties may conflict; and another type of case seems to proceed on the lines of the cases where new trustees may be appointed under the Trustee Act, 1925, by the court.

Thus, in *Re North Molton Mining Co.* [1886] W.N. 78 (which was actually a case of a voluntary winding up, but which is decided on wording similar to that of s. 188 (1) and the principle of which must apply to a compulsory winding up), a liquidator some time after his appointment became of unsound mind and was confined in an asylum in such circumstances that there seemed to be no prospect of his immediate recovery. A question arose as to the jurisdiction of the High Court (as it appeared to be a case in which the Stannaries Court might be concerned), but we need not trouble ourselves with that point. An application was made by a shareholder *ex parte* under what was then s. 141 of the Companies Act, 1862, for the removal of the liquidator and the appointment of another in his place. This relief Kay, J., granted, and, indeed, it seems the only practical course to take in such circumstances.

An interesting case of a removal in a compulsory winding up is provided by *Re Rubber & Produce Investment Trust* [1915] 1 Ch. 382, where the creditors in the winding up sought the removal of a liquidator who was contemplating taking misfeasance proceedings against the directors. This may sound rather a startling ground for seeking the removal of a liquidator, particularly when it is added that the liquidator was acting *bonâ fide* and in pursuance of what he honestly believed was his duty. The creditors' objection, however, was based on this, that they did not wish such assets as there were to be dissipated in litigation which they believed would be fruitless; even if any amount were so recovered it appeared that there could not be any balance for the shareholders, so that the creditors alone were concerned in the matter, and they had formed the opinion that a bird in the hand was worth two in the bush. In these circumstances Astbury, J., held there was cause shown, and removed the liquidator.

That great judge, Jessel, M.R., has something to say as to circumstances in which the court ought to remove a liquidator in *Re Sir John Moore Gold Mining Co.*, 12 Ch. D. 325, at p. 331. Dealing with the phrase "on due cause shown" (which then appeared in the Act, but which cannot differ in meaning from the present phrase of "on cause shown"), he says: "I should say that, as a general rule, they point to some unfitness of the person—it may be from personal character or from his connection with other parties, or from circumstances in which he is mixed up—some unfitness in the wide sense of the term." In that case there were possible claims against two directors and the secretary, who was the sole surviving liquidator; but this latter functionary took the side of the alleged delinquents, and was accordingly removed on the application of a contributory. That again was a voluntary winding up.

The next case, *Re Adam Eyton, Ltd.*, 36 Ch. D. 299, was a case of compulsory liquidation. This is rather a strange case, in which two very large creditors were allowed to have a liquidator removed, against whom there was no suggestion or imputation of any sort, on paying into the Bank of England to the account of the official liquidator of the company sufficient to pay all the creditors other than themselves and paying the costs as between solicitor and client of the liquidator. It was there stated that the passage from Sir George Jessel quoted above was not intended to be exhaustive. Perhaps I may be permitted to summarise this case by a quotation from the headnote: "Whenever the court is satisfied that it is for the general advantage of those interested in the assets of the company that a liquidator should be removed, it has power to remove him and appoint a new one."

Lastly, *Re Karamelli & Barnet, Ltd.* [1917] 1 Ch. 203, shows that the fact that a liquidator is also receiver for debenture-holders is a circumstance sufficient to show cause for the removal of a liquidator.

There is really no distinction between any of the three modes of winding up for the purpose of removing liquidators, and the authorities referred to, and many others to be found in the text-books, can be taken as covering all three: Companies Act, 1929, s. 188, 249, 259.

A Conveyancer's Diary.

Vesting Orders as to Chattels.

In our issue of 9th December, a letter was published signed "L. H. E.," in which our correspondent states that s. 51 of the T.A., 1925, gives no power to the court to make a vesting order as to chattels in possession, subject to the trust and he points out, that in the implied vesting declaration under s. 40 chattels are specifically mentioned.

By way of illustration of the inconvenience that may result from the omission in s. 51, to which he calls attention, L.H.E., instances a case where a former trustee, having retained possession of the chattels after the appointment of new trustees by the court, permits the chattels to be "in the possession, order or disposition" of a beneficiary who subsequently becomes bankrupt, and he says that "in such a case it would certainly be convenient for the new trustees to be able to prove merely by production of the vesting order that the former trustee was not the 'true owner' of the chattels."

Now, under s. 51 of the T.A., 1925, where there is vested in a trustee (amongst other things) "a thing in action," the court may make an order vesting the right "to sue for or recover the thing in action," in such person as the court may appoint. On an appointment of new trustees (which must be deemed to precede the vesting order) I think that chattels remaining in the hands of a former trustee become "things in action," and the order vesting in the new trustees the right to recover the things gives them all that they require.

It is true that the expression "things in action" or "choses in action" is generally used in a more limited sense than it would literally mean, and is applied to debts and other things not capable of actual manual possession, but the weight of authority appears to be in favour of including in it chattels not in actual possession. Blackstone says: "Property in personal chattels may be either in possession, which is when a man hath not only the right to enjoy but hath the actual enjoyment of the thing; or else it is in action where a man hath only a bare right without any occupation or enjoyment"

(2 Com. 396). And in *Colonial Bank* v. *Whinney* (1885), 30 Ch. D. 261, Fry, L.J., said: "According to my view, all personal things are either in possession or in action. The law knows no *testium quid* between the two." I think that the expression "a thing in action," as used in s. 51, includes a chattel, subject to the trust which the new trustees may have to "recover" from a former trustee or any other person holding it.

With regard to the particular instance given by our correspondent, the chattels would not pass to the trustee in bankruptcy of the beneficiary unless they were in his order or disposition *in his trade or business* which could hardly be the case, nor do I see how, after the appointment of new trustees, the former trustee could possibly be said to be the "true owner." Further, it seems to me that the beneficiary taking the chattels with notice of the trust, would himself be a trustee thereof, and consequently they would not pass to his trustee in bankruptcy.

The Position of Paid Trustees.

In a letter which the writer does not wish to be published, a correspondent refers to my Diary for 2nd September, in which I discussed the position of paid trustees in relation to their liability for breaches of trust and their right to relief under s. 61 of the T.A., 1925.

Our correspondent says: "A differentiation is made in the article between paid and unpaid trustees, but that is no very clear definition of a paid trustee. I should like to know whether, if a will contains a clause giving a solicitor-trustee a legacy of a small sum, say £100, for his trouble in acting in the trust, this constitutes him a paid trustee. I can understand that if an annual sum is given, as is sometimes the case, even if it is for a limited period of years, this might constitute him a paid trustee, but I should be rather surprised if the ordinary complimentary legacy of £100 or £200 as frequently given to a solicitor-trustee could be held to constitute him a paid trustee."

I am afraid that there is no authority on this point. In both the cases mentioned in the article to which our correspondent refers the trustees were persons who held themselves out as carrying on the business of acting as trustees for profit.

In *National Trustee Co. of Australasia* v. *General Finance Co. of Australasia* [1905] A.C. 373, where the Privy Council had before it an appeal concerning the liability of a trustee-company for a breach of trust, it was said in their Lordships' judgment: "It is a very material circumstance that the appellants are a joint stock company formed for the purpose of earning profits for their shareholders; part of their business is to act as trustees and executors; and they are paid for their services by a commission which the law of the Colony authorises them to retain out of trust funds administered by them, in addition to their costs." On that ground it was held that the trustee-company could not claim relief under s. 3 of the J.T.A., 1896 (now s. 61 of the T.A., 1925).

The other case is *Re Windsor Steam Coal Co.* (1901) *Ltd.* [1929] 1 Ch. 151, where a liquidator of a limited company in liquidation sought to be relieved under s. 61 of the T.A., 1925. Maugham, J., in the court below, held that a liquidator was not a trustee, and so could not have the relief claimed. In the Court of Appeal the decision was affirmed on other grounds but without deciding whether or not a liquidator was a trustee. Lawrence, L.J., however, after referring to *National Trustee Co. of Australasia* v. *General Finance Co. of Australasia*, said: "He" (the liquidator) "is a chartered accountant carrying on business for his own profit, and in the course of such business and as part of it he undertakes to act as the liquidator of the company at a commission." For that reason his Lordship said that in his opinion the liquidator was not entitled to relief under s. 61.

The principle of these authorities would of course apply to a trustee corporation which is empowered to charge under the instrument creating the trust, or by order of the court (where appointed by the court) under s. 42 of the T.A., 1925.

I do not think that it has ever been contended in any reported case that a private trustee who is given a legacy or annuity as compensation for his trouble in acting as an executor or trustee is a "paid trustee." Certainly the authorities to which I have referred would not support such a contention, for in both cases the decision rested upon the fact that the trustee was carrying on the business of acting as such for his own profit. That could hardly apply to a private individual who was the object of a testator's bounty to the extent of giving him some compensation for his trouble; such a person does not seem to me to be remunerated in the ordinary business sense.

Searches in Bankruptcy by Personal Representatives.

In the correspondence column of the issue of 11th November, there appeared a letter from Mr. Alfred Powell, who puts the case of a bankrupt becoming entitled to a share in an intestate's estate after the receiving order made against him and before he has obtained his discharge. The administrator searches and finds the receiving order. Our correspondent wishes to know whether I think that the administrator would be justified in paying the bankrupt without referring to his trustee in bankruptcy.

This turns upon the construction of s. 47 (1) of the B.A., which contains provisions with regard to dealings with an undischarged bankrupt.

So far as material the sub-section reads:—

> "All transactions by a bankrupt with any person dealing with him *bonâ fide* and for value, in respect of property, whether real or personal, acquired by the bankrupt after adjudication, shall if completed before any intervention by the trustee, be valid against the trustee, and any estate or interest in such property which by virtue of this Act is vested in the trustee shall determine and pass in such manner and to such extent as may be required for giving effect to any such transaction."

It is further enacted by the sub-section that transactions by the bankrupt with his banker shall be deemed to be dealings with the banker for value.

It seems to me to be quite plain that this enactment does not protect an administrator who having notice of the bankruptcy pays a share in the estate of the intestate to the bankrupt. If he did so it could not, in my view, possibly be said that he was acting "*bonâ fide*," and of course there can be no question of the transaction being "for value."

I think that a personal representative ought always to search before division, and if he finds that a receiving order has been made against one of the persons beneficially entitled, he should pay the trustee in bankruptcy.

Landlord and Tenant Notebook.

Distress for Debt.

THE common law extra-legal remedy of distress has been much modified by Parliament. The first important change was that brought about by what Blackburn, J., called "a very harsh and unjust law," the Sale of Distresses Act, 1689 (see *Lyons* v. *Elliott* (1876), 1 Q.B.D. 210, at p. 213); many of the older statutes, as was pointed out in *Hooker* v. *Mulcahy*, reported in *The Times* of 30th November, were, if authentic, merely declaratory of the common law. More recent legislation has striven to remove or mitigate the harshness and injustice complained of, namely, that which resulted from conferring a right of sale in addition of a right of seizure, and thus making it worth the landlord's while to take third parties' goods. As a consequence, the law is in so complicated a condition that its treatment in any text-book on the law of

landlord and tenant takes up far more space than its relation to life warrants; for the same causes have had the effect that landlords are now somewhat shy of exercising the right. Nevertheless, their position is still such as to excite envy in the breast of many a creditor, who feels that a device by which he could help himself to and sell his debtor's goods without the trouble and delay of even a default summons is something which would, as advertisers put it, supply a long-felt want. And it is not surprising that landlords who have other dealings with their tenants than those incidental to the relationship of landlord and tenant have conceived the idea of applying, by agreement, the remedy of distress to the settlement of accounts showing a balance in the landlord's favour.

Of course, such provisions, while they may and usually do refer to the law of distress in terms, cannot reproduce the common law or statutory position in its entirety. The parties cannot create a right to distrain upon the property of third parties, whether comprised in a hire-purchase agreement or not. The foundation of the law of distress for rent is to be sought in privity of estate, not in privity of contract. Thus, in *Freeman* v. *Edwards* (1848), 2 Exch. 732, assignees in bankruptcy recovered property "distrained upon" by the defendant in these circumstances: the bankrupt had mortgaged his copyhold estate to the defendant by a deed, under which he covenanted to surrender and which provided that if interest should be twenty-eight days overdue, it should be "lawful to enter and distrain for the same interest and arrears, the distress then and there found to impound and dispose of according to the due course of law, in the same manner in all respects as landlords are authorised to do in respect of distresses for arrears of rent reserved upon leases for years." The seizure of the goods sued for had taken place after the debtor had surrendered his estate, and the mortgagor had been admitted, and after the bankruptcy; it was therefore held that, as there was no longer a rent-charge, there was no common law right of distress; and as the covenant charged no specific goods, it had ceased to operate, and the articles seized had passed to the plaintiff on the bankruptcy.

As between landlord and tenant, it is mostly in mining leases and in leases of licensed premises that these clauses occur, and in the latter case, as has been demonstrated, the landlord must now have very careful regard to the Bills of Sale Acts, 1878 and 1882. Roughly speaking, the former of these two was passed to prevent frauds upon guileless money-lenders and furniture dealers, who might be induced to advance money on the security of, or to buy, articles already pledged, and it seeks to further this object by providing for registration of bills of sale; while the 1882 statute is concerned with the protection of guileless borrowers, and sets about its task by prescribing a schedule. Now the definition of "bill of sale" for the purposes of these statutes is very wide: the list of classes of instruments given in s. 3 of the 1878 Act is very comprehensive, and in subsequent sections the statute keeps on coming back to the subject of its own scope. The force of these provisions was brought home to a firm of brewers, who, in *Pulbrook* v. *Ashby & Co.* (1887), 56 L.J., Q.B. 376, were sued for trespass and illegal distress. The plaintiff was a "tied" tenant, and the lease contained a clause by which, if during the term any sums were due in respect of malt liquors supplied, and the account was unpaid twenty-four hours after demand made, it should be "lawful for the landlord to enter and distrain upon the said premises in respect of the amount so due, and to dispose of the distress then and there found in the same manner as landlords may distrain for rent in arrear." The defendants had, after notice given, purported to distrain for an amount of £53 16s. It was held that the clause was entered into "by way of security for a future or contingent debt" (1878 Act, s. 6), that it constituted "an authority or licence to take possession of personal chattels as security for a debt" (*ib.*, s. 4), and as the lease had not been registered as a bill of sale, the plaintiff was entitled to judgment.

A similar position was dealt with in *Stevens* v. *Marston* (1890), 60 L.J., Q.B. 192, C.A., tried at first instance by the same judge as *Pulbrook* v. *Ashby*. The Court of Appeal approved the correctness of that decision, and at the same time Lord Esher, M.R., took pains to point out that the validity of the lease as a lease was not affected by the fate of the unregistered distress clause.

Mining leases are expressly excepted from the definition of bill of sale by s. 6 of the Act of 1878. Accordingly, the debenture-holders in *Re Roundwood Colliery Co.* [1897] 1 Ch. 373, C.A., failed (on appeal) to obtain an injunction against landlords to restrain them from proceeding with distresses. The facts were somewhat peculiar: the tenant company held two leases of adjoining mines, granted by different landowners; each gave the grantor a power to "enter and seize, distrain, sell and dispose of in the same manner as landlords may for rent in arrear any engines, machinery, tools . . . belonging to the lessees or their assigns in or about the premises hereby demised or any adjoining or neighbouring collieries." It was contended by the debenture-holders that this was not a mining lease, or at all events that it was a mining lease and more, and that the clause was void for non-registration; but the Court of Appeal held that it was a mining lease, and thus excepted; while if it was not, it was a lease and thus never within the scope of the Bills of Sale Acts.

What is particularly interesting in the above case is that it shows that a right to distrain for debt, while narrower in scope than a right to distrain for rent in that it is limited to the debtor's own goods, is wider in another respect: it can be made applicable to goods not on any particular premises. In the case of distress for rent, it is only in the exceptional circumstances provided for by the Distress for Rent Act, 1737, s. 1, that goods may be seized outside the demised premises. The possible argument that "in the same manner as landlords may for rent" was restrictive as well as descriptive was not advanced, presumably in view of the very clear provisions as to adjoining premises. But one wonders how far creditor and debtor can by agreement create a position analogous to that of distrainor and distrainee in the case of rent. Does such a phrase make it essential, if a creditor does not conduct the levy himself, to employ a certificated bailiff? (Law of Distress Amendment Act, 1888, s. 7.)

Our County Court Letter.

THE CONTRACTS OF NURSES.

THE above subject has been considered in two recent cases. In *Pym* v. *Ellis*, at Holbeach County Court, the plaintiff (as the honorary treasurer of the Lincolnshire County Nursing Association) applied for (1) an injunction to restrain the defendant from working as a district or private nurse within three miles of Holbeach for five years, (2) damages (viz., £20), although this claim was not pressed. The evidence was, that the defendant had signed an agreement, whereby (if she terminated her services) she would not set up as a nurse within the above radius. The defendant's case was that (*a*) she had not resigned her position of district nurse, but had been dismissed, (*b*) although she had signed the agreement, she had not understood its effect. His Honour Judge Langman held that (1) the agreement was too wide, and was in restraint of competition and trade, (2) as the agreement was, therefore, null and void, the defendant was entitled to judgment, with costs.

In *Shelbourne* v. *Brand*, at Leicester County Court, the claim was for £12 12s. being (*a*) three weeks' nursing fees at three guineas a week; (*b*) board and lodging at one guinea a week for the same period. The plaintiff's case was that (1) she had been engaged to attend the defendant's wife (in her confinement) for three weeks from the 5th July; (2) in fact

the child was born on the 18th June (when the plaintiff was engaged elsewhere) and another nurse was engaged instead; (3) the plaintiff was therefore unemployed between the dates reserved for the defendant's wife. The defence was that the plaintiff was not engaged in any event, i.e., whether a baby was born or not, and it was submitted that in the hypothetical case of a mother and child dying, e.g., within twenty-four hours, the nurse could not claim in respect of the full period of three weeks. His Honour Judge Haydon, K.C., upheld the latter proposition, and observed that an untimely birth was a risk of the profession, and a husband would therefore not be liable to pay two nurses. Judgment was accordingly given for the defendant (who did not apply for costs) but obtained an order for payment-out of a sum paid into court.

GROUNDS FOR DISMISSAL OF CHECKWEIGHMAN.

THE above subject was recently considered at Doncaster County Court in *Bramall* v. *Watts and Others*, in which the plaintiff claimed £78 15s. (from the secretary, chairman and treasurer of the Rossington Main Checkweigh Fund) on the following grounds: (*a*) The above amount represented wages due to the plaintiff as checkweighman, (*b*) trouble had arisen owing to his not being a member of the union, and he had ultimately been wrongly dismissed from his office. A preliminary objection was taken that (1) the defendants had been wrongly sued, as they had never handled the money, which was collected from the miners by the colliery company, and was then paid to the checkweighman, (2) if this payment was wrong, the plaintiff's action should have been brought against the colliery company. It was explained (on behalf of the plaintiff) that he did not desire the money so much as re-instatement, and an order was accordingly made that the defendants be sued in a representative capacity only, viz., as the officials in charge of the fund. The plaintiff accordingly abandoned most of his claim, which was reduced to the amount of one week's wages. The plaintiff's case was that (*a*) as he had been appointed on an exhaustive vote, he could only be dismissed in the same way, (*b*) no proper notice of the ballot was given, and the only other possible ground for dismissal (which was not alleged) was misconduct in the mine, (*c*) otherwise a checkweighman could only lose his position by death or an act of God. The defendants' case was that (1) there was no evidence of impropriety in the ballot, (2) the plaintiff had admittedly been convicted and sentenced (for forgery) in 1930. His Honour Judge Hildyard, K.C., held that there might be other grounds for dismissal, besides misconduct in the mine, and judgment was given for the defendants, with costs.

Reviews.

Compensation for Public Acquisition of Land, with Notes on Injurious Affection and Betterment. 1933. By WM. MARSHALL FREEMAN, of the Middle Temple, Barrister-at-Law, Recorder of Stamford. Demy 8vo. pp. xii and (with Index) 120. London, Liverpool, and Glasgow: The Solicitors' Law Stationery Society, Limited. 10s. net.

The large variety of Acts of Parliament referred to in this little book brings home to the reader the fact, perhaps regrettable, that public acquisition of land is becoming more and more frequent. It is now a subject upon which any practitioner may have to advise. The book will be of great use in that it is designed to set out clearly and succinctly the principles which emerge from what the learned author truly calls "the overgrown and confusing body of law" upon the subject.

The text is written in very plain and readable language, interspersed with the relevant sections of the various Acts, which are introduced by short explanatory notes. Notes are also attached to the sections, which are printed in large type, and the actual pages on which they occur are set out in heavy type in the Table of Statutes and the index, facilitating quick reference. Comparatively few cases are cited, perhaps no disadvantage, though it was a little surprising not to find the much discussed case of *West Midlands Joint Electricity Authority* v. *Pitt*, 48 T.L.R. 180, which one would have expected to see referred to under s. 22 (1) of the Electricity Supply Act 1919. The note on procedure appears particularly valuable, for it collects much information which would otherwise have to be discovered by laborious search through Acts and Rules. Altogether, the book is one which will be invaluable to both branches of the profession, whether they are advising the public authority or the owner of the land.

Private Companies: Their Management and Statutory Obligations. By HERBERT W. JORDAN, Company Registration Agent, and STANLEY BORRIE, Solicitor. Second Edition. 1933. Demy 8vo. pp. xii and (with Index) 205. London: Jordan & Sons, Ltd. 5s. net.

Messrs. Jordan and Borrie have brought out a new edition of this little book. As an outline of the subject it is admirable, and represents the fruits of learning and experience. It contains no references to reported cases, and very few to statutes, hence its utility to the practising lawyer is limited. As a general survey of the subject, and for the layman, it represents good value, and students could derive considerable advantage from a perusal of its pages, particularly as it deals with the practical side of the matter in a way which is frequently lacking in text-books, small and large.

Books Received.

Mistake in the Law of Contract. By ROLAND CHAMPNESS, M.A., LL.M., late Barrister-at-law of the Inner Temple, Solicitor of the Supreme Court. 1933. Demy 8vo. pp. xvi and (with Index) 112. London: Stevens and Sons, Limited. 5s. net.

Income Tax Summarised. By W. BARRIE ABBOTT, Bachelor of Law and Chartered Accountant. Second Edition. 1933. Demy 8vo. pp. viii and (with Index) 114. London: Gee & Co. (Publishers), Ltd. 5s. net.

Carriage of Goods by Sea Act, 1924. By RICHARD WILLIAMSON, of the Middle Temple and King's Inns, Barrister-at-Law, and C. H. WITHERS PAYNE, LL.D. (Lond.), a Solicitor of the Supreme Court of Judicature (Honours). 1934. Royal 8vo. pp. xix and (with Index) 183. London: Stevens and Sons, Ltd. 12s. 6d. net.

Notable British Trials. Trial of Benjamin Knowles. Edited by ALBERT LIECK. 1933. Demy 8vo. pp. 215. Edinburgh and London: William Hodge & Co., Ltd. 10s. 6d. net.

Coulson & Forbes on the Law of Waters (Sea, Tidal and Inland) and of Land Drainage. Fifth Edition. 1933. By H. STUART MOORE, F.S.A., of the Inner Temple, Barrister-at-Law. London: Sweet & Maxwell, Ltd. £3 3s. net.

The Journal of Comparative Legislation and International Law. Third Series—Vol. XV, Part IV. November, 1933. London: Society of Comparative Legislation. 6s. net.

The Law of the Fire Brigade. By R. WYNNE FRAZIER, of Gray's Inn and the Midland Circuit, Barrister-at-Law. 1933. Demy 8vo. pp. xii and (with Index) 92. London, Liverpool and Glasgow: The Solicitors' Law Stationery Society, Ltd. 5s. net.

The Lawyer's Remembrancer and Pocket Book, 1934. By ARTHUR POWELL, K.C. Revised and Edited by J. W WHITLOCK, M.A., LL.B. London: Butterworth & Co. (Publishers) Ltd. 5s. net.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Rating and Valuation Acts, 1925-1929—Notice of Proposal to Revenue Officer.

Q. 2883. In submitting a proposal on behalf of an owner-occupier to the rating authority for amendment of the current valuation list under s. 37 of the Rating and Valuation Act, 1925, which proposal relates to property coming within the Rating and Valuation (Apportionment) Act, 1928, must a copy of that proposal be served upon the Revenue Officer; or is it only necessary to serve the Revenue Officer with notice of appeal in case of an appeal from the decision of the assessment committee to Quarter Sessions (see Sched. 1, s. 17 (*g*) and (*h*), Rating and Valuation (Apportionment) Act, 1928, and *Hastings* v. *Revenue Officer Walsingham* (74 Sol. J. 298). If necessary, whose duty is it to serve the copy proposal and the notice of appeal to Quarter Sessions on the Revenue Officer?

A. The Revenue Officer is *functus officio* as to all new claims and appeals from the allowance of same. The claim must be made to the rating authority under s. 70 (4) of L.G.A., 1929, on the prescribed form, which can be obtained from that authority. The reason the Revenue Officer is not concerned is that the Government contribution to rates was only based on the first list after the Act.

Building Lease—Solicitors' Remuneration Order.

Q. 2884. What is the vital point that makes a lease a building lease for the purposes of the Solicitors scale of charges? Please quote any authorities defining a building lease.

A. This a question which it is impossible to answer very definitely. In the Irish case of *Re Hogans' Estate* (1894), 1 Ir. Rep. 563, it was held that a lease of 135 acres with a cottage for ninety-nine years, with a covenant to expend £1,000 within twelve months in good and sufficient improvements, was not a building lease, as there was no stipulation or manifest necessity that the money should be spent in building. In the subsequent case, *Re Kilkenny Corporation* (1904), 1 Ir. Rep. 570, a covenant to spend £250, according to engineer's specification, which involved a good deal of new work and constructional alteration, but no new building, was held to be a building lease. The question does not depend on length of lease (*Hillyard* v. *McDonald* [1917] 2 K.B. 248—lease for fourteen years' covenant to erect a cinema held a building lease). The Council of The Law Society expressed the opinion that a lease for fourteen years at £50 a year, rising to £57 10s., with covenant to expend £120 in putting in new shop front and making other improvements and alterations (not including fixtures), was a building lease. (Opinion, 13th June, 1901). It appears to be a question of proportion, where such an improvement as a new shop front is part of the consideration, but, unfortunately, there is no definite guide.

Purchase by the Trustee of a Settlement of Property Conveyed to him upon Trust for Sale, the Proceeds to be Held Upon the Trusts of the Settlement—Sale—Necessity to be Satisfied that the Purchase was Authorised.

Q. 2885. A has purchased a freehold property from the public trustee. The last deed abstracted is a conveyance to the Public Trustee, dated 15th October, 1927, whereby the property is conveyed to him on trust for sale, and to hold the proceeds of sale upon the trusts of a settlement, dated 24th November, 1914;- the settlement is not abstracted. A has required an abstract of such part of the settlement as shows the Public Trustee's power to purchase the property and production of the settlement. The reply of the Public Trustee's solicitor is as follows: "The purchaser has no notice that the money provided by the Public Trustee for the purchase of the property was trust money and he has no right to assume it. The purchaser need not concern himself with the settlement of 24th November, 1914, and no abstract can be furnished. The property is held upon an express trust for sale and the purchaser cannot go behind it." Your opinion is requested as to whether or not the Public Trustee's solicitor's contention is correct with a reference to any relevant authorities.

A. We are disposed to think that the solicitor acting for the Public Trustee is correct in his contention. A purchaser will not be affected with notice of matters which he could not have learned without enquiring into the truth of recitals contained in the documents of title, or otherwise going behind the documents themselves (Emmet "Notes on Perusing Titles," 12th ed., vol. 1, p. 175, citing *Earl of Gainsborough* v. *Whatcombe Terra-cotta Clay Co.* (1885), 54 L.J. Ch. 991. Whether he is right or wrong our subscriber may accept the title with confidence, for the purchase money paid by the trustee must have been either (1) no trust fund, in which case no difficulty arises, or (2) a trust fund properly applicable for the purchase, and here again no difficulty arises, or (3) a trust fund not properly applicable for the purchase, and in that last case the purchaser will also get a good title, because the Public Trustee would be merely doing his duty in remedying the breach of trust by realising the fund (see Emmet "Notes on Perusing Titles," *ubi supra*, citing *Dart*, 7th ed., p. 629, 8th ed., p. 534; *Re Jenkins and Randall*, [1903] 2 Ch. 362; and L.P.A., 1925, s. 23.)

Devise of Real Estate—Repugnant Conditions.

Q. 2886. By his will dated in February, 1932, and proved in September, 1933, A made the following bequest: "I give devise and bequeath all my freehold property known as Black Acre, unto my son B, for his sole use and benefit absolutely, and I direct that if my said son B shall at any time sell the said property for a sum not less than £5,000, he shall divide the surplus proceeds of sale above the said sum of £5,000 between X, Y and Z equally, such sums to be paid over immediately after the sale of such property." Does the above direction make the property settled land within the S.L.A., 1925? If it does, we presume a vesting assent will have to be made by the personal representatives vesting the property in B, subject to the trusts of the will. If it is not settled land, we presume that a vesting assent will be made vesting the land in B absolutely without any reference to the proviso in the will.

A. We express the opinion that the direction as to the distribution of the proceeds of sale in the event of a sale at a price over £5,000 are void, as being inconsistent with the absolute interest given to B, under the principle laid down in *Bradley* v. *Peixoto*, 3 Ves. 324. Many instances of the application of this principle are to be found, and it has been held that a condition that if an estate were sold certain sums should be paid out of the proceeds was void: *Re Elliot, Kelly* v. *Elliot* [1896] 2 Ch. 353. On this basis the assent should be made to B absolutely in fee simple.

Obituary.

SIR D. H. KYD.

Sir David Hope Kyd, LL.D., Barrister-at-law, of Temple Gardens, Temple, died at Strathtay, Perthshire, on Friday, 15th December, at the age of seventy. Educated at Sherborne and Pembroke College, Cambridge, he was called to the Bar by the Inner Temple in 1888. He contested as a Conservative the Whitechapel Division in 1900 and 1906, Stoke-on-Trent, in 1910, and the Forest of Dean in 1910 and 1911. He received the honour of knighthood in 1916.

MR. A. MACMORRAN, K.C.

Mr. Alexander Macmorran, K.C., Master-Treasurer of the Middle Temple, 1926–1927, and formerly Recorder of Hastings, died at his home at Kensington on Sunday, 17th December, at the age of eighty-one. Educated at Edinburgh University, he was called to the Bar by the Middle Temple in 1875. He took silk in 1896 and became a Bencher of his Inn in 1906. He was made a Justice of the Peace for Middlesex in 1909; in 1915 was appointed Recorder of Hastings, from which office he retired in 1930. In 1921 he was Commissioner of Assize on the North-Eastern Circuit. Mr. Macmorran edited the *Justice of the Peace* in 1875, and he also edited and published many books on public health and local government, including Lumley's "Public Health."

MR. JOSEPH SHAW, K.C.

Mr. Joseph Shaw, M.A., K.C., of Paper-buildings, Temple, and Palace-chambers, Westminster, died at West Southbourne on Thursday, 14th December, at the age of seventy-seven. Educated at Malvern and Trinity College, Cambridge, he was called to the Bar by the Inner Temple in 1887. He practised at the Parliamentary Bar for a number of years and took silk in 1910. He was appointed a Director of the Powell Duffryn Steam Coal Company, Limited, and was Chairman from 1897 to 1928. He was also a Director of the Great Western Railway Company.

MR. C. G. O. BRIDGEMAN.

Mr. Charles George Orlando Bridgeman, M.A., Barrister-at-Law, of Stone-buildings, Lincoln's Inn, died on Tuesday, 19th December, at the age of eighty-one. Mr. Bridgeman was called to the Bar by Lincoln's Inn in 1876 and practised in the Lancaster Chancery Court.

MR. C. L. COOTE.

Mr. Charles Lewis Coote, Barrister-at-Law, of Old-square, Lincoln's Inn, died on Saturday, 16th December, in his eightieth year. Mr. Coote was called to the Bar by Lincoln's Inn in 1881.

MR. H. B. HEMMING.

Mr. Harry Baird Hemming, LL.B., Barrister-at-Law, of New-square, Lincoln's Inn, died at his home at Bourne End on Wednesday, 13th December, at the age of seventy-seven. Mr. Hemming was educated at Rugby and Trinity College, Cambridge, and was called to the Bar by Lincoln's Inn in 1880. He edited the law reports of the *Justice of the Peace* until the end of 1932, when he retired owing to ill-health.

MR. W. A. PECK.

Mr. William Awdry Peck, one of the conveyancing counsel of the High Court of Justice, of Old Square, Lincoln's-inn, died on Saturday, 16th December, at the age of seventy-two. Educated at Westminster and Christ Church, Oxford, he was called to the Bar by Lincoln's Inn in 1887.

MR. E. A. BENNETT.

Mr. Ellery Arthur Bennett, retired solicitor, formerly a partner in the firm of Messrs. Whiteford & Bennett, of Plymouth, died at Plymouth on Saturday, 16th December, in his ninetieth year. Mr. Bennett was admitted a solicitor in 1867.

MR. E. HUMBERT.

Mr. Ernest Humbert, solicitor, a partner in the firm of Messrs. Taylor & Humbert, of Field Court, Gray's Inn, died at Oxshott, on Sunday, 17th December, at the age of seventy-seven. Mr. Humbert was admitted a solicitor in 1877.

MR. H. R. PEAKE.

Mr. Hugh Rossindel Peake, retired solicitor, of Hounslow, died on Thursday, 14th December, at the age of seventy-nine, Mr. Peake, who was admitted a solicitor in 1877, was for many years Clerk to the local Board of Health, and subsequently the Urban District Council of Heston and Isleworth. He also held many other public offices in the district.

MR. T. L. SHOOSMITH.

Mr. Thurston Laidlaw Shoosmith, retired solicitor, formerly a partner in the firm of Messrs. Shoosmith & Harrison, of Northampton, died on Monday, 18th December, at the age of sixty-eight. He was admitted a solicitor in 1891. Mr. Shoosmith was also well known as an artist in water colour.

In Lighter Vein.

THE WEEK'S ANNIVERSARY.

Lord Chief Justice Dallas was highly respected as a judge, very able as a lawyer, and most effective as a speaker. He was called to the Bar at Lincoln's Inn in 1782 and, not long afterwards, had the good fortune to be engaged for the defence in the great trial of Warren Hastings, which lasted from 1787 to 1795. By the end of that time, he was firmly enough established to take silk and in the same year he became a bencher of his Inn. In 1805 he took what was long one of the first steps towards judicial eminence and became Chief Justice of Chester. In 1808 he became Solicitor-General. In 1813, he was raised to the Bench of the Common Pleas and, finally, five years later, he was advanced to the head of the court as Chief Justice. For five more years he held this office, till ill-health forced his resignation in the Christmas Vacation of 1823. He survived only a year, dying on the 25th December, 1824. As judge he was engaged in the trial of the Luddites at Derby, in 1817, and of the Cato-street conspirators in 1820. At the Bar he was concerned in several notable trials, including *General Picton's Case*.

LOOKING BACK.

It is to be hoped that Lord Darling misdirected himself in point of prophecy when he referred to his birthday (this year his eighty-fourth) as an annual engagement "not likely often—if again—to recur." Inevitably, he was interviewed by the press as he will be till his hundredth, and inevitably, he was asked to compare the advocates of the past with those of the present. He answered with a passage from his book, "The Pensioner's Garden": "'More strong men have lived and died since Agamemnon than before him, I daresay, and some of them I remember,' said the Serjeant, 'but the methods of warfare change.'" Hawkins, Clarke, Lockwood, Carson, Rufus Isaacs and F. E. Smith, strong men enough, have warred in his time and well he can judge them, for it was he who persuaded Carson to stay at the English Bar. "You let me print your name outside my chambers," he said, "and you'll have five times my practice in a year." Thus he backed to win the man of whom A. H. Bremner, the doyen of the junior Bar in the eighties, said: "I have seen all the leaders who have taken their places till the present day, and I put Carson first." As for methods of warfare, the change in the character of the Bench has probably most to do with it. There has certainly been a progressive softening of manners since "the hard-featured, gruff-spoken sages" who reigned just beyond living memory.

TRIALS OF JURIES.

The lament of the jurors of Manchester, twice poured out before Mr. Justice Atkinson at the Assizes, marks an increasing restiveness on the part of the citizen at being called to the courts morning after morning for the simple purpose of being told that their services are not yet required for the constitution of the great palladium of British liberty. Formerly, there was deemed to be no great hardship for a grand jury to be summoned at night, even from the table of the High Sheriff, only to be told when it arrived in breathless haste in court before the judge: "Gentlemen, I dismiss you for the night." But views are otherwise now. In this connection, it has been lately suggested that fewer jurors than twelve would serve as well. In New Zealand, I believe, they have juries of four to try claims up to £500, but the late Mr. Justice Alpers was strongly of opinion that four samples are not enough to get the average common sense of the citizen, and noted that on this account plaintiffs often claim £501. The only stupid jury he ever had to deal with was a jury of four, and it gave him a verdict on a fallacy the judge had not thought it worth while to expose.

Notes of Cases.

House of Lords.

London Midland and Scottish Railway Co. *v.* **Anglo-Scottish Railways Assessment Authority;**
London and North Eastern Railway Co. *v.* **The Same.**

14th December, 1933.

COMPENSATION FOR USE OF RAILWAYS IN WAR—WHETHER REVENUE—RAILWAYS (VALUATION FOR RATING) ACT, 1930.

These two appeals raised the question whether certain very large sums were revenue or an amount set aside out of revenue within the meaning of s. 4 (3) (ii) of the Act of 1930, so that interest thereon ought to be deducted under that section from the revenue expenditure of the appellants in ascertaining their average net receipts as a step in arriving at the rateable values of their railway hereditaments. It was contended by the appellants that the sums in question were not revenue being paid in settlement of claims, many of which were of a capital nature. The respondents contended that the sums were in their origin payments in respect of revenue expenditure.

Lord ATKIN, in delivering judgment, and dealing first with the appeal of the London Midland and Scottish Railway Co., said the subject-matter of the Act was valuation for rating, and if the receipt of the sums in question was revenue for that purpose, it was revenue for all purposes. The result would be that if the Act had been in operation at the time when the £60,000,000 was received by the railway companies, it would appear that the rates fund of the year of receipt would have included the whole of the £60,000,000, or so much as was not set aside for renewals. But the Act of 1930 was general, and government funds might in the future be paid to railways either in the circumstances of war or in other circumstances. He could not think that it was ever intended that the sums received in such circumstances were ever intended to come into the computation of rateable value. Being satisfied that for the purposes of the Act those sums were not set aside out of revenue, he thought that the contention of the railway company succeeded, and the appeal should be allowed, with costs, in that House and below. His lordship added that it was agreed that the result of the above appeal should be followed in the case of the London & North Eastern Railway Company.

Lords WARRINGTON, TOMLIN, RUSSELL and WRIGHT agreed.

COUNSEL: *W. E. Tyldesley Jones*, K.C., *J. H. Singleton*, K.C., *W. T. Monckton*, K.C., and *A. M. Trustram Eve*; *Wilfrid Greene*, K.C., *Sir Stafford Cripps*, K.C., and *Erskine Simes*.

SOLICITORS: *Alexander Eddy*; *J. B. Pritchard, Torr & Co.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

Court of Appeal.

Attorney-General *v.* **Southport Corporation.**

Lord Hanworth, M.R., Slesser and Romer, L.JJ.

5th December, 1933.

REVENUE—ENTERTAINMENTS TAX—BATHING POOL—OTHER AMENITIES—ADMISSION OF NON-BATHERS BY TICKET—LIABILITY TO TAX—FINANCE (NEW DUTIES) ACT, 1916 (6 & 7 Geo. 5, c. 11, s. 1).

Appeal from a decision of Finlay, J.

The Crown appealed against a decision of Finlay, J., who, upon a case stated, had decided that the Southport Corporation were not liable to pay entertainments tax on the payment of tickets for admission by non-bathers to the sea bathing lake and grounds of the corporation. The bathing was not organised, save that there were galas on special occasions, for which a special charge was made, in respect of which entertainments duty was paid. The sheltered seats, terraces, lawns, gardens and café were open and used at the same prices, whether or not there was bathing or expectation of bathing. Finlay, J., thought that the claim was not justified. It was not a case of an "entertainment," and, that being so, the non-bathers were not "spectators of an entertainment." He thought that "entertainment" meant something in the nature of an organised entertainment, though not necessarily organised by the persons who were to receive payment. The Crown appealed. The court dismissed the appeal.

Lord HANWORTH, M.R., said that the Act of 1916 contemplated a tax levied upon those responsible for the management of an entertainment. There was no indication that the respondents took any share in the management. They had a certain amount of control over the facilities given for bathing and recreation, but there was no evidence of management. Was there then any exhibition or sport? He (his lordship) could not so hold. There was, on the other hand, abundant ground for asking the price charged, in order to give admission, not necessarily to the bathing, but to the other amenities which the place offered. There was, incidentally, something, the bathing, which might interest some people and might not interest others. But the bathing seemed ancillary to the other amenities which were provided for people who might not necessarily be attracted by any kind of exhibition or sport provided for their entertainment.

Lords Justices SLESSER and ROMER gave judgment to the same effect.

COUNSEL: *Sir Donald Somervell*, K.C. (Solicitor-General) and *W. Bowstead*, for the appellant; *Singleton*, K.C., and *Maxwell Fyfe*, for respondents.

SOLICITORS: *Solicitor of Customs and Excise*; *Sharpe, Pritchard & Co.*, for *R. Edgar Perrins*, Southport.

[Reported by G. T. WHITFIELD-HAYES, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Swaffer *v.* **Mulcahy. Hooker** *v.* **Same. Smith** *v.* **Same.**

MacKinnon, J. 29th November, 1933.

DISTRESS—TITHE—WHETHER SHEEP LAWFULLY SEIZED—ANCIENT LAW—DISTRESS ANALOGOUS TO EXECUTION—LAWFUL SEIZURE.

This was an action of replevin brought by Frank Swaffer, a farmer, and the owner of West Hawke Farm, Kingsnorth, Ashford, Kent. On the 26th March, 1932, notice was given on behalf of Queen Anne's Bounty to the Ashford County Court of an application for recovery from Swaffer of £11 7s. 10d. arrears of tithe rent-charge by distress. The county court, on the 5th May, 1932, made an order for the recovery of the amount due, and appointed A. H. Joy to distrain. Joy, on the 7th July, 1932, served on the plaintiff notice under s. 81 of the Tithe Act, 1836, of his intention to

distrain on or after the 19th July. No further steps were then taken, and on the 3rd April, 1933, the county court, on the application of Queen Anne's Bounty, appointed the present defendant, Jeremiah Mulcahy to distrain in place of Joy. Mulcahy served no further notice under the Act of 1836, but on the 8th May went to the plaintiff's farm and levied distress on ten ewes, nineteen lambs, and five tegs. The plaintiff then began his action of replevin. He alleged, *inter alia*, that the distress was illegal in that the sheep and lambs were privileged from distress under 51 Hen. III, stat. 4, and Les Estatuz Del Eschekere, Districtiones Scaccarii (*temp. incert.*) in that other sufficient distress, including hay and farm and garden implements, was to be found on the land out of which the tithe rent-charge issued. The defendant did not admit that there were in force any statutes which could properly be cited as referred to by the plaintiff, and alternatively, he denied that those statutes or any of them had any application to the matters in issue.

MacKinnon, J., said that the pleadings raised four points. Of those points, three—whether the statutes of Henry III and the so-called Statute of the Exchequer existed and were applicable, whether it was illegal to take sheep because they were not tithable before 1836, and whether the distress was irregular because, though Joy had given ten days' notice Mulcahy had not—were questions of law. The fourth, whether there were other articles in fact sufficient to satisfy the claim, was one of fact. As to the third point, that the distress was illegal because notice was not given a second time, he thought that the plaintiff having had one ten days' notice there was no need to give him a second. The second point had not been argued, because it, like the point as to the necessity for ten days' notice, had been decided by the Divisional Court in *Queen Anne's Bounty* v. *Thorne*, 77 Sol. J. 764. There remained the most important and interesting point—whether the distress was wrongful because what were seized were sheep. The defendant did not admit that any statutes existed which limited the right as suggested by the plaintiff. His lordship reviewed the evidence, documentary and oral, and the authorities relating to the alleged statutes, and said that he thought the truth was that that was a very ancient statement of the law that the landlord was not entitled to take sheep, which was sufficient for the present case. But the question then arose whether the distress under s. 81 of the Tithe Commutation Act, 1836, was subject to the qualification of a landlord's distress that he could not take sheep. It was not a distress by a landlord, but a distress by way of execution, and the defendant relied on the decision of Lord Mansfield in *Hutchins* v. *Chambers* (1758), 1 Burr. 479, which was followed by McCardie, J., in *McCreagh* v. *Cox*, 39 T.L.R. 484. Those cases turned on the power of distress under the Poor Relief Act, 1601. In his (MacKinnon, J.'s) view, Lord Mansfield said that that seizure was partly analogous to distress, but far more analogous to execution. He thought that that applied to this case, and that distress under the Act of 1836 was far more analogous to execution, and therefore the rule of law laid down in the ancient statutes did not apply to it. The plaintiff failed on that point, and the seizure was not illegal because it was a seizure of sheep, but was authorised by a distress analogous to execution rather than to a landlord's distress. Judgment for the defendant.

Counsel: *D. N. Pritt*, K.C., *Ashton W. Roskill* and *H. M. Cross*, for the plaintiffs; *Sir William Jowitt*, K.C., and *C. S. Rewcastle*, for the defendant.

Solicitors: *E. F. Iwi; Deacon & Co.*

[Reported by Charles Clayton, Esq., Barrister-at-Law.

A similar point to the above was also raised in the other two actions. In addition, the question was raised whether a horse which was in actual use could lawfully be seized, and it was admitted that it could not. In the last case a cart-horse which was seized when in use did not belong to the plaintiff, but had been lent to him by its owner; his lordship, after reviewing the authorities, held that a bailee might replevy, and that the plaintiff was therefore entitled to a declaration that the horse, as in the previous case, was wrongly seized.

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Parliamentary News.

Progress of Bills.

House of Lords.

Agricultural Marketing Bill.
Read Second Time. [18th December.
Edinburgh Corporation Order Confirmation Bill.
Considered on Report. [19th December.
Newfoundland Bill.
Read Second Time. [19th December.
Parliament (Reform) Bill.
Read First Time. [19th December.
Public Works Facilities Scheme (Thames Conservancy River Improvement) Bill.
Read Third Time. [19th December.
Public Works Facilities Scheme (Witney Urban District Council) Bill.
Read Third Time. [14th December.
Road Traffic (Emergency Treatment) Bill.
Read Third Time. [19th December.

House of Commons.

Dyestuffs (Import Regulation) Bill.
Read Second Time. [18th December.
Edinburgh Corporation Order Confirmation Bill.
Read Third Time. [18th December.
Firearms Act (1920) Amendment Bill.
Read Second Time. [18th December.
Illegal Trawling (Scotland) Bill.
Read First Time. [19th December.

Ministry of Health Provisional Order Confirmation (Worthing) Bill.
Read Third Time. [19th December.
Newfoundland Bill.
Read Third Time. [18th December.
Powers of Disinheritance Bill.
Read Second Time. [18th December.
Public Works Facilities Scheme (Witney Urban District Council) Bill.
Lords Amendments agreed to. [18th December.

Questions to Ministers.

ANCIENT STATUTES (PROSECUTIONS).

Captain CUNNINGHAM-REID asked the Home Secretary if he will state how many persons were prosecuted during the past year, or other convenient period, under statutes dating from the reign of Queen Elizabeth or earlier; and how many convictions were obtained?

Sir J. GILMOUR: I regret that figures are not available. [18th December.

Societies.

The Medico-Legal Society.

ANNUAL DINNER.

Sir BERNARD SPILSBURY, the President, took the chair at the annual dinner of this Society held at the Holborn Restaurant on the 8th December.

Lord ATKIN, after the loyal toasts had been honoured, proposed the toast "Medicine and Law," the two great pillars—he said—upon which rested the continuance and orderly development of civilisation. The Society was the only body which related them so closely together. Both professions were trying to discover truth in spite of a good many difficulties. Doctors had the advantage of possessing the facts; lawyers had to work through the medium of the inaccurate and imperfect observation of witnesses. A universal characteristic of the human mind was the tendency to mistake inference for observation, and this failing might also at times affect the doctor's work. The doctors of America had made a recent contribution to the administration of justice in the use of a drug for which it was claimed that a person under its influence must tell the truth. Lord Atkin doubted whether some people whom he had met would be capable of telling the truth under the influence of any drug, whether the removal of a man's powers of will could prevent him from telling unconscious lies, or whether the natural man was necessarily a truth-telling man. Nevertheless, he could not help wondering what would be the effect if this drug were applied to all expert witnesses—although no one would ever dream of applying it to their President.

As the relation between medicine and law became closer and their common problems became more numerous and complicated, there was increasing need for co-operation and for an organised effort to obtain the very best instruction in the means of dealing with these problems. The time was ripe for the establishment of a medico-legal institute in London. Nearly every capital on the Continent of Europe had an institute of that kind. The Society had members of international reputation who would be able to attract students from all over the world. Such an institute would give great relief to coroners, who would be able to obtain advice and opinions at the earliest possible moment on the difficult questions that came before them. The Society had many coroners as members, and Lord Atkin differed emphatically from those who considered that the coroner's court was not a useful institution; he considered that it was absolutely essential, and that on the whole it worked most efficiently, temperately and judicially.

Lord DAWSON OF PENN, in reply, remarked that lawyers had much to teach doctors in many respects, especially about holidays and protection from unqualified rivals. Moreover, men thought of law in terms of reasonableness, but of medicine in terms of magic. He wished to see the Medico-Legal Institute founded as part of a wider conception, an Academy of Medicine. Scientific knowledge was growing so fast that the judges, in spite of the marvellous things they had done hitherto, could not for ever keep pace with it, and it would be necessary to have an authoritative source of accurate and unbiased information. He foresaw the wider use of scientific assessors in court. Moreover, such an institute was needed to solve the many new medico-legal problems which were constantly arising, especially that of the treatment of young delinquents.

Sir R. GRAHAM CAMPBELL, also in reply, said that the conflict of medical experts had been most strikingly illustrated to him when he had on one occasion to decide between the contradictory evidence of Lord Dawson of Penn and Sir Humphrey Rolleston, in a police court, on the question of whether a certain defendant was or was not well enough to attend the court. Fortunately, an amicable settlement had been reached. It was impossible, he thought, to over-rate the services which experts of the standing of Sir Bernard Spilsbury and Sir William Willcox had performed in the administration of the criminal law, and he paid a warm tribute to the work of the divisional surgeons of the Metropolitan Police, who performed their duties admirably—even though Lord Horder might be unwilling to assist them in the small hours of the morning!

Lord ATKIN proposed "The health of the Society," and Sir BERNARD SPILSBURY showed the great variety of the subjects which the Society discussed at its lecture meetings by quoting a number of recent titles, such as the Human Blood Groups, X-rays and Radium, and the Legal Aspects of Shock.

Lord RIDDELL, proposing "The health of the Guests," in an amusing speech, remarked that Sir Herbert Cunliffe was the Chairman of the General Council of the Bar—the inner trade union of trade unions; Colonel Samman was an apothecary as well as a member of the Bar; the Coroners Society was ably represented by Mr. A. L. Forrester. He thought he had better praise Sir Graham Campbell for the same reason that the old lady had given for bowing on the mention of the Devil's name—"civility costs nothing and you never know what may happen." Mr. H. C. Dickens was a worthy successor of his illustrious grandfather.

Sir HOLBURT WARING, in reply, urged that the Medico-Legal Institute should be housed in its own building near the new London University buildings in Bloomsbury.

Mr. H. C. DICKENS expressed gratitude to the profession from which he made his living, and urged its members to go on having disputes with their partners and sewing up swabs in their patients' abdomens!

National Council for Mental Hygiene.

CONFERENCE ON MENTAL HEALTH.

His Royal Highness PRINCE GEORGE, President of the National Council for Mental Hygiene, opened, on 22nd November, the third biennial Mental Health Conference organised by that Council.

The Congress was addressed by Sir Maurice Craig and Professor W. Langdon Brown on "The Place of Mental Health in the Life of the Nation," and Sir EDWARD TINDAL ATKINSON, K.C., contributed a paper on the same subject in which he said that he had at times contemplated a classification of crimes and their authors based upon a kind of scale in which the degree of the mental state of the criminal should prevail. The expert safe-opener could be said to be exercising singularly perfect mental processes, and the cause of his delinquency would be sought elsewhere than in his mental state. Between him and the genuinely insane there was a whole uncharted sea of crimes in which in almost infinitely varying degree mental health was in fact, if not in law, an issue relevant to responsibility. How far existing criminal law and procedure could be amended by recognising wider issues as to mental responsibility was an interesting and controversial subject, and one which should be cautiously approached. He was an optimist in the belief that the work of the National Council of Mental Hygiene must in due time march with a diminution in crime; progress might be slow, but nevertheless the tide crept on.

THE EARL OF FEVERSHAM (President of the National Association of Probation Officers) said that 60 to 70 per cent. of criminal offenders were as capable of responding to the right treatment as they were apt to become enemies of society if accorded the wrong treatment. The Probation Acts provided for the collection of all necessary information, but the courts did not always take full advantage of their powers, with the result that many cases of criminal behaviour that could be explained by medical and mental examination passed unrecognised, while the courts continued to mete out treatment that served no useful purpose.

The second session of the Congress discussed:

THE WORKING OF THE MENTAL TREATMENT ACT, 1930.

Mr. L. G. BROCK, Chairman of the Board of Control, presided, and the discussion was opened by Sir EDWARD HILTON YOUNG, K.C., Minister of Health, who devoted himself to the provision in s. 5 of the Act under which a patient who cannot express willingness to undergo treatment, but who is likely to recover in a short time, may be admitted to a mental hospital without certification as a temporary patient for a period of six months. He declared that local authorities

were not making nearly enough use of this section. The Board of Control had calculated that about 12 per cent. of all mental patients could properly be admitted on the temporary footing, and 7 per cent. of private patients were so dealt with, but only 2 per cent. of rate-aided patients had actually been admitted under this section. This meant, the Minister said, that about 1,600 rate-aided patients were denied the facilities which Parliament had expressly provided for them and certified when they need not have been. He admitted that the numbers were small and the section imposed some difficulty on the medical men and local authorities, but declared that Parliament was not likely to extend facilities for treatment until the existing ones were properly used. He thought that the relieving officers could do more than any other class to see that the section was properly worked, and suggested that magistrates should always enquire whether its procedure could be used as an alternative to a summary reception order.

Dr. J. S. I. SKOTTOWE, Medical Superintendent of the Swansea County Borough Mental Hospital, said that the Act was a great advance, for it recognised legal safeguards both for the individual and for the community, and the existence of varying degrees of mental illness. It not only removed restrictions on medical advice and treatment but was a positive and progressive thing. To take the fullest possible advantage of the Act, local authorities must be sponsors of mental health services as well as being the managers of local mental hospitals.

Dr. J. I. RUSSELL, Medical Superintendent of the North Riding Mental Hospital, attributed failure to use the Act to a confusion between the voluntary and the uncertifiable classes. Most voluntary patients, he said, were certifiable. He thought it morally wrong, and he hoped that it might be shown to be legally wrong, ever to certify a patient who claimed the privileges of the Mental Treatment Act. The temporary treatment provision of s. 5 might never get a fair trial because the difficulties it involved could be avoided by certification. It ought to serve admirably for all involuntary patients who did not actually protest against hospital treatment.

The President of the Metropolitan Relieving Officers' Association denied that relieving officers were to blame for the failure to use the temporary treatment provisions. As relieving officers under the Lunacy Act, 1890, he said, they had no duties at all under the 1930 Act, and as authorised officers they had no duty to ascertain temporary patients; they had only to sign the relatives' request for admission.

Mr. A. D. ARMSTRONG, Public Assistance Officer of East Ham, considered that the relieving officer ought not to come in contact with the mental patient at all, but that the local authority ought to administer both Acts as a medical service.

PUNISHMENT OR TREATMENT ?

Mr. NORMAN BIRKETT, K.C., took the chair at the afternoon session on Friday. The discussion was opened by Mr. ALEXANDER PATERSON, Prison Commissioner. He said that very often punishment and treatment were not contradictory terms. Mere committal to prison, apart from any treatment received there, was the deterrent to the average citizen. Criminals varied very greatly, so there must be very different kinds of provision for them. The guiding principles must be the protection of society, the rights of the individual, and the belief in the possibilities of human nature.

Dr. R. G. GORDON said that doctors and magistrates must invariably approach this problem from opposite points of view. The law was concerned with rules for the benefit of the community, but the doctor must think of his patient as an individual. Each side must be prepared to compromise and try to understand the point of view of the other. The goal to be aimed at was not so much to teach the criminal or potential criminal that he "could not win" because of the awful things that would happen to him, as to convince him that he could do better by taking the straight course, and that he was quite capable of making good in it.

Mr. CLAUD MULLINS said that the magistrate's great problem was lest in doing what was best for the individual he might fail to deter others. Punishment had an ugly name but could not be got rid of. The defiant delinquent needed a special form of treatment, something between prison and probation: detention for a month on plenty of hard work, good food and contact with the outside world followed by supervision under the Probation Act.

Dr. LETITIA FAIRFIELD spoke of the danger of treating offenders as interesting patients. An over-sentimentalised attitude, she said, produced a frame of mind extraordinarily difficult to deal with. The young offender studied the mind of the reformer at least as closely as the reformer studied his.

A special session was held for medical magistrates on 25th November. Lord HORDER OF ASHFORD presided and Dr. M. HAMBLIN-SMITH, late Medical Officer, H.M. Prison, Birmingham, opened a discussion on

THE MEDICAL ATTITUDE TO CRIME.

He said that many penal systems had been tried and all had failed simply because they were systems. All systems of punishment were self-condemned by their name; they were ridiculous answers to a question that should never have been asked, for they supposed the offender to be the constant element, whereas he was the variable element. There was no such thing as a criminal class; crime was merely a symptom; the system did not characterise the offender, explain the offence or suggest the most suitable way of dealing with him. The treatment of an offender, like that of a patient, must be personal and individual. Physical disabilities might predispose to crime and should be, if possible, corrected; their contribution was, however, merely subsidiary. Conduct was always the result of mental life. An estimate must be made of the offender's intelligence, as the results of intelligence tests had a high degree of correlation with conduct. These results must, however, be weighed with all the other factors in the case. The highest figure which could be safely given for mentally defective criminals was 5 per cent. Far more offenders were the subjects of temperamental defect than of deficiency of intelligence. Great as might be the theoretical objections to the McNaghten criteria, they were safe in practice and involved no hardship to the accused. The time for improving on them had not yet come. It was wholly unjustifiable to sentence a man in order that a mental abnormality might be investigated and dealt with by the prison authorities.

Dr. R. D. GILLESPIE said that medicine, with its scientific attitude, might definitely claim the right to deal with drug addiction, alcoholism, suicide and sexual offences. Some form of treatment for addicts resembling certification in lunacy was desirable.

Dr. HENRIETTA TREVITHICK, J.P., objected to the practice of making small girls give full details of sexual offences in court and suggested that a woman magistrate should take their depositions in private.

Dr. J. R. REES said that the Institute of Medical Psychology had held a number of successful discussions for probation officers. If only magistrates would worry the Home Office enough they could soon obtain a panel of advising psychologists.

Prof. MILLAIS CULPIN said that psychological knowledge was quite as necessary for the protection of the public as for that of the criminal. He instanced offenders who were treated leniently or acquitted when psychological investigation would show that they were almost certain to commit further crime.

University of London Law Society.

The University of London Law Society, under the Chairmanship of the President, Mr. J. C. Hales, held a balloon debate on Tuesday, 5th December at Gower-street. It consisted of the following speakers impersonating well-known people, and pleading their cause why they were justified in contending that they were entitled to have their place in the balloon, and not to be cast out as useless ballast to destruction:—Miss Duffield, Messrs. J. Ward, F. E. C. Wood, Goodman and Moiswietch.

The following were elected to be members of the Rules Committee:—Messrs. Goodman, F. E. C. Wood, Miss Duffield, Fatardo and Hobley.

It was announced that Mr. Geo. Stone had passed his Solicitors' Final, and hearty congratulations and best wishes for his success were expressed.

ANNUAL MEETING.

The annual meeting of the University of London Law Society was held at Gower-street on Monday, 11th December. Mr. J. C. Hales (President) was in the chair.

In thanking the retiring officers attention was called to the fact that those ladies and gentlemen had achieved academic distinction, as they had all done remarkably well in the law examinations held during the year.

It was further said, from the floor of the House, that this reflected credit on the Society, which gave so much opportunity for the bringing out of talent by the moots regularly held during the session, and presided over by one of the High Court judges of the King's Bench or Chancery Division, who, in addition to giving most useful judgments on equity and common law, gave valuable hints to the students in their kindly remarks and advice during the argument of cases by counsel.

The officers elected for the ensuing year were Mr. A. Goodman, President; Miss N. Duffield, Hon. Secretary; Mr. E. J. Jacob, Hon. Treasurer; Committee: First Year Students, Mr. Rogers; Second Year Students, Miss Fingelstein; Third Year Students, Mr. Fertado: Other interests, Mr. F. Wood.

It was announced that Mr. A. Goodman was the winner of the best speaker's cup, and the runners up were Mr. F. E. C. Wood and Mr. J. Wood.

Mr. Goodman, on taking over the office of President, moved a vote of thanks to the retiring President, Mr. J. C. Hales, which was passed with acclamation. By his conduct in the chair he had raised still higher the standard of the Society. Mr. Hales had shown tact and courtesy in logically interpreting the rules of debate. Under his ægis the Society had consolidated its position, and had become one of the most active societies within the University. They were proud of the fact that Mr. Hales won the high honour of a scholarship from the School of Economics, which took him to the Hague during last summer.

Mr. Hales suitably replied, and paid a tribute to the excellent team work which was shown in the increased prestige and reputation of the Society.

A hearty vote of thanks was also given to Miss V. A. Braune for the way in which she had carried out her duties as Hon. Secretary, also to Mr. Mescall for his work as Hon. Treasurer.

Birmingham Law Society.

On and after 27th December, the address for The Birmingham Law Society, The Birmingham Law Students' Society, The Birmingham Board of Legal Studies, and the Poor Persons' Committee will be The Law Library, Temple-street, Birmingham 2.

Warwickshire Law Society.

The annual dinner of the Warwickshire Law Society was held on Wednesday, 29th November last, in St. Mary's Hall, Coventry. The chair was taken by the President, Mr. Roland Hollick. A number of distinguished guests were present, including Mr. J. F. Eales, K.C., M.P., Recorder of Coventry, the Mayor of Coventry (Councillor W. H. Harris), Captain W. F. Strickland, M.P., the Provost of Coventry (The Very Reverend R. T. Howard), Mr. H. M. Blenkinsop, President-elect of the Warwickshire Law Society, Mr. R. A. Willes, Deputy-Chairman of the Warwickshire Quarter Sessions, Mr. W. A. Oubridge, President of the Coventry Chamber of Commerce, Dr. A. T. Hawley, President of the Coventry Division of the British Medical Association, and Colonel W. F. Wyley, V.D., D.L.

The toast of "The Bench and the Bar" was proposed by the President, and replied to by the Recorder of Coventry, and Mr. R. A. Willes. The toast of "The Law Society and the Provincial Law Societies" was proposed by Colonel Wyley, and replied to by Mr. W. A. Coleman who, describing himself as the junior member of the Council, voiced the general regret at the indisposition which prevented the President of The Law Society, Sir Reginald Poole, from being present that evening. Mr. Henry Maxwell Blenkinsop proposed the toast of "Our Guests," which was replied to by the Provost.

Solicitors' Benevolent Association.

The usual monthly meeting of the Board of Directors of this Association was held at 60, Carey-street, on the 13th December. Mr. Norman T. Crombie (York) in the chair. The other Directors present were Sir A. Norman Hill, Bart., Sir Reginald W. Poole, Sir E. F. Knapp-Fisher, Ernest E. Bird, P. D. Botterell, C.B.E., A. J. Cash (Derby), E. R. Cook, C.B.E., T. G. Cowan, T. S. Curtis, E. F. Dent, R. B. Johns (Plymouth), G. Keith, E. B. Knight, Chas. W. Lee, C. G. May, R. C. Nesbitt, Henry W. Michelmore (Exeter), H. F. Plant, P. J. Skelton (Manchester), A. B. Urmston (Maidstone) and Thos. Gill (Secretary). The sum of £1,304 was distributed in grants of assistance, thirty-one new members were admitted, Christmas gifts to the amount of £286 were sent to applicants, and other general business transacted.

United Law Society.

A meeting of the United Law Society was held in Middle Temple Common Room on 4th December. Mr. R. G. Plowman proposed: "That in the opinion of this house service in the Territorials should be made compulsory." Mr. H. H. West opposed. Messrs. Ball, Burke, Brown, Bell, Oppenheim, Jameson and Carpenter spoke and Mr. Plowman replied. The motion was lost.

The Hardwicke Society.

An ordinary meeting of the Society was held in the Middle Temple Common Room, on Friday, 1st December. The President, Mr. L. Ungoed Thomas took the chair at 8 p.m. In public business Mr. F. Howard moved: "That this House re-affirms Locarno." Mr. D. Walker Smith opposed. There spoke to the motion Mr. Caplan, Mr. Granville Sharp (ex-President), Prince Lieven, Mr. Gersham Stewart, Mr. Menzies, Mr. Stride (Hon. Treasurer), Mr. Mayers (Hon. Secretary), Mrs. Ungoed Thomas, Mr. Banerji, Mr. Wood, Mr. Bonard, the Hon. Proposer in reply. On a division the motion was won by seven votes.

An ordinary meeting of the society was held in the Middle Temple Common Room on Friday, 8th December. The president, Mr. L. Ungoed Thomas, took the chair at 8 p.m. In public business Mr. F. N. Bucher moved: "This House welcomes the Divorce Bill now before Parliament." Miss J. Bernal Greenwood opposed. There spoke to the motion Mr. Parker, Prince Lieven, Mr. Thorne, Mr. Stranders, Mr. Menzies, Mr. Petrie, Mrs. Ungoed Thomas, Mr. Stogdon, Mr. Aldridge, Mr. Prosser, Mr. Douglas, Mr. Wood, Mr. Mayers (hon. secretary) and the hon. proposer in reply. On a division the motion was won by one vote.

Christmas Vacation, 1933-1934.

NOTICE.

There will be no sitting in court during the Christmas Vacation.

During the Christmas Vacation all applications "which may require to be immediately or promptly heard" are to be made to the judge who for the time being shall act as Vacation Judge.

The Hon. Mr. Justice DU PARCQ will act as Vacation Judge from Friday, 22nd December, 1933, to Wednesday, 10th January, 1934, both days inclusive. His lordship will sit in King's Bench Judges' Chambers on Thursday, 28th December, and Thursday, 4th January, at half-past 10.

On days other than those when the Vacation Judge sits in Chambers, applications in urgent matters may be made to his lordship personally, or by post.

When applications are made by post the brief of counsel should be sent to the judge by post or rail prepaid, accompanied by office copies of the affidavits in support of the application, and also by a minute, on a separate sheet of paper, signed by counsel, of the order he may consider the applicant entitled to, and also an envelope, sufficiently stamped, capable of receiving the papers, addressed as follows: "Chancery Official Letter: To the Registrar in Vacation, Chancery Registrars' Chambers, Royal Courts of Justice, London, W.C.2."

The papers sent to the judge will be returned to the Registrar.

The address of the Vacation Judge can be obtained on application at the Chancery Registrar's Chambers, Room 136, Royal Courts of Justice.

Chancery Registrar's Chambers,
Royal Courts of Justice.

Legal Notes and News.

Honours and Appointments.

It is announced from the Colonial Office that the King has been pleased to approve the appointment of Mr. C. E. LAW, Puisne Judge, Uganda, to be Chief Justice, Zanzibar, in succession to Sir G. H. Pickering, who has retired.

The India Office announces that the King has been pleased to approve the appointment of SI. NRIPENDRA NATH SIRCAR, barrister-at-law, as a Member of the Executive Council of the Governor-General of India in the vacancy which will occur at the end of April, 1934, on the retirement of Sir B. L. Mitter.

The Lord Chancellor has re-appointed Mr. Justice MACKINNON to be *ex-officio* Commissioner for England under the Railway and Canal Traffic Act, 1888.

The Board of Trade have appointed Mr. WILLIAM ARTHUR KAY to be Official Receiver for the Bankruptcy District of the County Courts holden at York and Harrogate as from the 1st January, 1934, in the place of Mr. Donald Sween Mackay, who has resigned his appointment.

The President of the Board of Trade has appointed Mr. STEPHEN PHILPOT LOW, Assistant Solicitor to the Ministry of Labour, to be Solicitor to the Board of Trade as from the 1st January, 1934, in the place of Sir Thomas James Barnes, C.B.E., who has been appointed H.M. Procurator-General and Treasury Solicitor. Mr. Low was called to the Bar by the Middle Temple in 1906.

Mr. FREDERICK RICHARD JORDAN, K.C., has been appointed Chief Justice of New South Wales.

Mr. JOHN A. CHATTERTON, Assistant Solicitor to Lindsey County Council, has been appointed Deputy Clerk of the Peace for Oxfordshire and of Oxfordshire County Council. Mr. Chatterton was admitted a solicitor in 1929.

CORRECTION.

In the notice of the honour conferred upon Mr. F. Llewellyn-Jones, M.P., by the University of Pécs (Hungary), which appeared under "Honours and Appointments" in last week's issue, Mr. Llewellyn-Jones was erroneously stated to be Coroner for the County of Kent. He is, of course, Coroner for the County of Flint.

Professional Announcements.

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ROYAL FINE ART COMMISSION.

The Ministry of Health and other Government Departments concerned desire to draw the attention of local authorities to the extension of the terms of reference of the Royal Fine Art Commission. The commission was appointed by Royal Warrant on 29th May, 1924, "to inquire into such questions of public amenity or of artistic importance as may be referred to them from time to time by any of our Departments of State, and to report thereon to such department; and furthermore, to give advice on similar questions when so requested by public or quasi-public bodies, when it appears to the said Commission that their assistance would be advantageous." By Royal Warrant of 24th August, 1933, the terms of reference have been extended by the following additional words:—

> "It shall also be open to the said Commission, if they so desire, to call the attention of any of our Departments of State, or of the appropriate public or quasi-public bodies, to any project or development which in the opinion of the said Commission may appear to affect amenities of a national or public character."

The Ministry in their circular of 4th March, 1933, on the Town and Country Planning Act, reminded local authorities that for new public buildings of importance the advice of the Royal Fine Art Commission is available. Local authorities are strongly advised to consult the Commission on any project of importance involving questions of public amenity. The consultation should take place before the authority commit themselves to a particular design. The advice is given free of charge.

It may be added that when projects of importance are put in hand by Government Departments, whether the work is entrusted to architects in private practice or is carried out directly by the department concerned, the proposed design is referred to the Royal Fine Art Commission for their advice before a final decision is taken.

Further particulars may be obtained from the Secretary, Royal Fine Art Commission, 6, Burlington-gardens, W.1.

SLUM CLEARANCE.

MINISTER DIRECTS INQUIRIES INTO ADEQUACY OF PROGRAMMES.

The Minister of Health has directed inquiries to be held under the Housing Acts in a number of towns as to the adequacy of the slum clearance programmes.

Inquiries will be held at an early date in the following towns:—

Bootle C.B.
Croydon C.B.
Durham City
Leicester C.B.
Lewes B.
Maidstone B.
Margate B.
Widnes B.
Whitby U.D.
Willesden U.D.
Worthing B.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 11th January, 1934.

	Div. Months.	Middle Price 19 Dec. 1933.	Flat Interest Yield. £ s. d.	†Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	110¼	3 12 7	3 7 1
Consols 2½%	JAJO	74	3 7 7	—
War Loan 3½% 1952 or after	JD	101	3 9 4	3 8 7
Funding 4% Loan 1960-90	MN	111⅛	3 12 0	3 7 1
Victory 4% Loan Av. life 29 years	MS	110⅛	3 12 8	3 8 10
Conversion 5% Loan 1944-64	MN	116¼	4 6 0	3 1 8
Conversion 4½% Loan 1940-44	JJ	108½	4 2 11	3 0 7
Conversion 3½% Loan 1961 or after	AO	101½	3 9 0	3 8 3
Conversion 3% Loan 1948-53	MS	98½	3 0 11	3 2 2
Conversion 2½% Loan 1944-49	AO	92½	2 14 1	3 2 9
Local Loans 3% Stock 1912 or after	JAJO	87	3 9 0	—
Bank Stock	AO	347½	3 9 1	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	77½	3 11 0	—
India 4½% 1950-55	MN	108	4 3 4	3 16 6
India 3½% 1931 or after	JAJO	86	4 1 5	—
India 3% 1948 or after	JAJO	73	4 2 2	—
Sudan 4½% 1939-73	FA	112	4 0 4	1 19 0
Sudan 4% 1974 Red. in part after 1950	MN	108	3 14 1	3 7 6
Transvaal Government 3% Guaranteed 1923-53 Average life 11 years	MN	101	2 19 5	—
COLONIAL SECURITIES				
*Australia (Commonw'th) 5% 1945-75	JJ	108	4 12 7	4 2 9
*Canada 3½% 1930-50	JJ	98½	3 11 1	3 12 4
*Cape of Good Hope 3½% 1929-49	JJ	100	3 10 0	3 10 0
Natal 3% 1929-49	JJ	95	3 3 2	3 8 8
New South Wales 3½% 1930-50	JJ	96	3 12 11	3 16 5
*New South Wales 5% 1945-65	JD	108	4 12 7	4 2 9
*New Zealand 4½% 1948-58	MS	107	4 4 1	3 16 9
*New Zealand 5% 1946	JJ	109	4 11 9	4 0 9
*Queensland 4% 1940-50	AO	101	3 19 2	3 16 8
*South Africa 5% 1945-75	JJ	112	4 9 3	3 14 9
*South Australia 5% 1945-75	JJ	108	4 12 7	4 2 9
*Tasmania 3½% 1920-40	JJ	99	3 10 8	3 13 9
Victoria 3½% 1929-49	AO	97	3 12 2	3 15 0
*W. Australia 4% 1942-62	JJ	100	4 0 0	4 0 0
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	85	3 10 7	—
*Birmingham 4½% 1948-68	AO	112	4 0 4	3 9 3
‡Cardiff 5% 1945-65	MS	111	4 10 1	3 16 9
Croydon 3% 1940-60	AO	94	3 3 10	3 7 1
*Hastings 5% 1947-67	AO	115	4 6 11	3 10 10
Hull 3½% 1925-55	FA	99	3 10 8	3 11 4
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	99	3 10 8	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	73	3 8 6	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	86	3 9 9	—
Manchester 3% 1941 or after	FA	86	3 9 9	—
Metropolitan Consd. 2½% 1920-49	MJSD	92	2 14 4	3 2 11
Metropolitan Water Board 3% "A" 1963-2003	AO	88	3 8 2	3 9 2
Do. do. 3% "B" 1934-2003	MS	89½	3 7 0	3 7 10
Do. do. 3% "E" 1953-73	JJ	95xd	3 3 2	3 4 6
*Middlesex C.C. 3½% 1927-47	FA	102	3 8 8	—
Do. do. 4½% 1950-70	MN	113	3 19 8	3 9 5
Nottingham 3% Irredeemable	MN	86	3 9 9	—
*Stockton 5% 1946-66	JJ	112	4 9 3	3 16 2
ENGLISH RAILWAY PRIOR CHARGES				
Gt. Western Rly. 4% Debenture	JJ	107½	3 14 5	—
Gt. Western Rly. 5% Rent Charge	FA	124½	4 0 4	—
Gt. Western Rly. 5% Preference	MA	108½	4 12 2	—
‡L. & N.E. Rly. 4% Debenture	JJ	101½xd	3 18 10	—
‡L. & N.E. Rly. 4% 1st Guaranteed	FA	93	4 6 0	—
‡L. Mid. & Scot. Rly. 4% Debenture	JJ	101½xd	3 18 10	—
‡L. Mid. & Scot. Rly. 4% Guaranteed	MA	96½	4 2 11	—
Southern Rly. 4% Debenture	JJ	106xd	3 15 6	—
Southern Rly. 5% Guaranteed	MA	120½	4 3 0	—
Southern Rly. 5% Preference	MA	106½	4 13 11	—

* Not available to Trustees over par.

† In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

‡ These Stocks are no longer available for trustees, either as strict Trustee or Chancery Stocks, no dividend having been paid on the Companies' Ordinary Stocks for the past year.

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